



DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-502]

Circular Welded Carbon Steel Pipes and Tubes from Thailand: Notice of Court Decision Not in Harmony with the Final Results of Antidumping Administrative Review; Notice of Amended Final Results of Antidumping Administrative Review; 2017-2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On September 17, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Saha Thai Steel Pipe Public Company Ltd. v. United States*, 538 F. Supp. 3d 1354 (CIT 2021) (*Saha Thai II*), sustaining the U.S. Department of Commerce's (Commerce) final results of redetermination pertaining to the administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes (pipes and tubes) from Thailand covering the period of review (POR) March 1, 2017, through February 28, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results of review with respect to the weighted-average dumping margin assigned to Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai).

DATES: Applicable September 27, 2021.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3797.

SUPPLEMENTARY INFORMATION:

Background

On November 20, 2019, Commerce published its *Final Results* in the 2017-2018 antidumping duty administrative review of pipes and tubes from Thailand.¹ In the *Final Results*, Commerce determined that a particular market situation (PMS) existed in the Thai pipes and tubes market related to purchases of hot-rolled coil during the POR.²

Mandatory respondent Saha Thai challenged Commerce's *Final Results* before the CIT. On October 19, 2020, the CIT remanded the *Final Results* and ordered Commerce to remove its cost-based PMS adjustment and recalculate Saha Thai's weighted-average dumping margin without a PMS adjustment.³

In the *Final Redetermination*, issued in March 2021, Commerce, under respectful protest, recalculated Saha Thai's weighted-average dumping margin without making a cost-based PMS adjustment.⁴ The CIT held that Commerce's *Final Redetermination* was consistent with the CIT's order in *Saha Thai II*.⁵

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a

¹ See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 84 FR 64041 (November 20, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum.

² *Id.*; see also *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017-2018*, 84 FR 22450 (May 17, 2019), and accompanying Preliminary Decision Memorandum, at 6-7.

³ See *Saha Thai Steel Pipe Pub. Co. Ltd. v. United States*, 476 F. Supp. 3d 1378, 1386 (CIT 2020) (*Saha Thai I*).

⁴ See *Final Results of Redetermination Pursuant to Court Remand, Saha Thai Steel Pipe Pub. Co., Ltd., et al. v. United States*, Court No. 19-00208, Slip Op. 20-148, dated March 14, 2021 (*Final Redetermination*).

⁵ See *Saha Thai II*.

⁶ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

“conclusive” court decision. The CIT’s September 17, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Saha Thai. The revised dumping margins are as follows:

| Exporter/Producer | Final Results of Review: Weighted-Average Dumping Margin (percent) | Final Results of Redetermination: Weighted-Average Dumping Margin (percent) |
|---|---|--|
| Saha Thai Steel Pipe (Public) Company, Ltd. | 5.15 | 0.00 |

Cash Deposit Requirements

Because Saha Thai has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). These amended final results of review will not affect the current cash deposit rate.

Liquidation of Suspended Entries

Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise, where appropriate, pursuant to the final and conclusive court decision and in accordance with 19 CFR 351.212(b). The time for appeals has expired. Because Saha Thai’s weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.⁸

Commerce’s “reseller policy” will apply to entries of subject merchandise during the POR produced by Saha Thai for which Saha Thai did not know that the merchandise they sold to

⁸ See 19 CFR 351.106(c)(2).

the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.⁹

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: September 8, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.
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⁹ For a full discussion of this practice, *see* Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).